

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION

FILED

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

LEVEL 3 COMMUNICATIONS, LLC, )

Plaintiff, )

v. )

CITY OF HUNTSVILLE, ALABAMA, )

Defendant. )

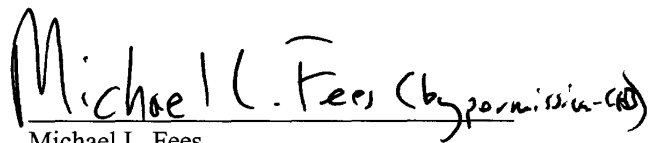
Civil Action Number: CV02-P-2055-NE

**MOTION FOR SUMMARY JUDGMENT**

Pursuant to rule 56 of the Federal Rules of Civil Procedure, defendant City of Huntsville, Alabama (the "COH"), hereby moves the Court to grant summary judgment in its favor and dismiss with prejudice all of the claims asserted against it in the complaint, as amended, filed by plaintiff Level 3 Communications, LLC. In support of this motion, the COH relies upon each of the following items: all pleadings of record in this case; this motion for summary judgment; the supporting statement of facts, brief, and evidentiary materials submitted contemporaneously herewith in accordance with exhibit A of the Court's order; and all applicable procedural and substantive laws. As grounds for this motion, the COH states that there is no genuine issue as to any material fact and that it is entitled to a judgment as a matter of law as to all of plaintiff's claims.

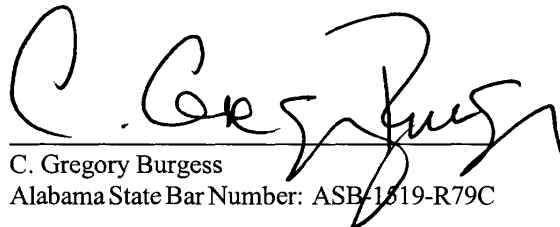
**WHEREFORE, PREMISES CONSIDERED**, the COH respectfully requests the Court to enter an order granting summary judgment in its favor and dismissing with prejudice all of the claims asserted against it in plaintiffs' complaint, as amended, with costs taxed against plaintiff.

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Michael L. Fees (by permission - CGB)

Michael L. Fees

Alabama State Bar Number: ASB-4924-F51M

C. Gregory Burgess

C. Gregory Burgess

Alabama State Bar Number: ASB-1819-R79C

**Attorneys for Defendant City of Huntsville,  
Alabama**

**OF COUNSEL:**

**FEES & BURGESS, P.C.**

213 Green Street

Huntsville, Alabama 35801

Telephone Number: (256) 536-0095

Facsimile Number: (256) 536-4440

**CERTIFICATE OF SERVICE**

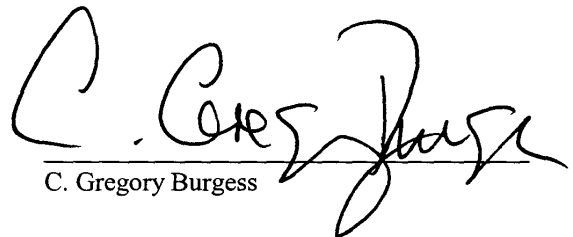
I hereby certify that a copy of the foregoing has been served upon the following via Federal Express or by depositing a copy in the United States Mail, first class, postage prepaid, addressed to them this the 19th day of December, 2003.

J. MARK WHITE  
**WHITE, ARNOLD, ANDREWS  
& DOWD P.C.**  
2025 3rd Avenue North, Suite 600  
Birmingham, Alabama 35203

AUGUSTA S. DOWD  
**WHITE, ARNOLD, ANDREWS  
& DOWD P.C.**  
2025 3rd Avenue North, Suite 600  
Birmingham, Alabama 35203

KRISTY J. HALL  
**COLE, RAYWID & BRAVERMAN, L.L.P.**  
191 Pennsylvania Avenue NW  
Suite 200  
Washington, District of Columbia 20006

T. SCOTT THOMPSON  
**COLE, RAYWID & BRAVERMAN, L.L.P.**  
1919 Pennsylvania Avenue NW  
Suite 200  
Washington, District of Columbia 20006

  
C. Gregory Burgess